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DEPARTMENT OF COMMERCE

International Trade Administration

[A-523-808]

Certain Steel Nails from the Sultanate of Oman: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain steel nails (nails) from the Sultanate of Oman (Oman) are being, or are likely to be, sold in the United States at less than normal value during the period of review (POR) of July 1, 2016, through June 30, 2017. Additionally, we are rescinding the review with respect to ten companies.

DATES: Applicable [INSERT THE DATE OF THE PUBLICATION OF THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Joseph Traw or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6079 or (202) 482-3936, respectively.

SUPPLEMENTARY INFORMATION

On July 13, 2015, Commerce published in the *Federal Register* an antidumping (AD) order on nails from Oman.¹ On July 3, 2017, Commerce notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations

¹ See *Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 80 FR 39994 (July 13, 2015) (*Order*).

with anniversaries in July 2017, including the AD *Order* on nails from Oman. Commerce received timely requests from Oman Fasteners LLC (Oman Fasteners) and Mid Continent Steel & Wire, Inc. (the petitioner) to conduct an administrative review of certain exporters covering the POR. On September 13, 2017, Commerce published a notice initiating an AD administrative review of nails from Oman covering 13 companies for the POR.²

In the *Initiation Notice*, Commerce indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Tariff Act of 1930, as amended (the Act), we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.³ On September 22, 2017, we released CBP entry data under Administrative Protective Order (APO) to all parties with access to information protected by APO. Subsequently, we issued the AD questionnaire to Oman Fasteners and Overseas International Steel Industry LLC and Overseas Distribution Services Inc. (OISI/ODS),⁴ the two mandatory respondents.⁵ On November 9, 2017, the petitioner timely withdrew its request for administrative review, pursuant to 19 CFR 351.213(d)(1), of all the producers and exporters except for Oman Fasteners, and OISI/ODS.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through 22, 2018.⁶ Accordingly, the revised deadline for

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 42974 (September 13, 2017) (*Initiation Notice*).

³ See *Initiation Notice*, 82 FR at 42974.

⁴ See Letter from the petitioner, “Certain Steel Nails from Oman: Withdrawal of Request for Administrative Review,” dated November 9, 2017. Commerce determined that Overseas International Steel Industry LLC and Overseas Distribution Services Inc. should be a collapsed entity in the previous administrative review. See *Certain Steel Nails from the Sultanate of Oman: Final Results of Antidumping Duty Administrative Review; 2014-2016*, 83 FR 4030 (January 29, 2018).

⁵ See Commerce’s Letters to Oman Fasteners and OISI/ODS dated September 28, 2017.

⁶ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

the preliminary determination of this investigation became April 7, 2018.⁷ On March 14, 2018, Commerce extended the preliminary results in this review to no later than May 7, 2018.⁸ Commerce received comments for the preliminary determination from the petitioner⁹ and Oman Fasteners on April 18, 2018.¹⁰

Partial Rescission of Administrative Review

Commerce received timely requests to conduct an administrative review of certain exporters covering the POR. Because the petitioner timely withdrew its requests for review of all of the companies listed in the *Initiation Notice*, with the exception of Oman Fasteners and OISI/ODS, we are rescinding the administrative review with respect to those 10 companies, pursuant to 19 CFR 351.213(d)(1).¹¹ Accordingly, the remaining companies subject to the instant review are Oman Fasteners and OISI/ODS.

Scope of the Order

The merchandise covered by this *Order* is nails having a nominal shaft length not exceeding 12 inches.¹² Merchandise covered by the *Order* is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00.

⁷ *Id.*

⁸ See Memorandum, “Certain Steel Nails from Oman: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated March 14, 2018.

⁹ See Petitioner’s Letter, “Certain Steel Nails from Oman: Pre-Preliminary Comments,” dated April 18, 2018.

¹⁰ See Oman Fasteners’ Letter, “Certain Steel Nails from Oman; Antidumping Second Review: Pre-Preliminary Comments,” dated April 18, 2018.

¹¹ Airlift Trans Oceanic Pvt. Ltd., Astrotech Steels Private Ltd, C.H. Robinson, Consolidated Shipping Services LLC, Dahnay Logistics Private Ltd., Flyjac Logistics Private Ltd., Intermarket (India) Private Ltd., Noble Shipping Private Ltd., Panalpina World Transport (I) Pvt. Ltd., and Swift Freight India Private Ltd.

¹² The shaft length of certain steel nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other certain steel nails shall be measured overall.

Nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this *Order* is dispositive. For a complete description of the scope of the *Order*, *see* the Preliminary Decision Memorandum.¹³

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.¹⁴ A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

¹³ *See* Memorandum, "Decision Memorandum for Preliminary Results of the 2014-2016 Antidumping Duty Administrative Review of Certain Steel Nails from the Sultanate of Oman," dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum).

¹⁴ *See* Preliminary Decision Memorandum.

Adverse Facts Available

Section 776(a) of the Act provides that Commerce shall, subject to section 782(d) of the Act, use “facts otherwise available” if: (1) necessary information is not on the record; or (2) an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by Commerce, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act provides that Commerce may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information (*i.e.*, adverse facts available, or AFA). In so doing, and under the Trade Preferences Extension Act of 2015 (TPEA), Commerce is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information. Further, section 776(b)(2) of the Act states that an adverse inference may include reliance on information derived from the petition, the final determination from the less than fair value investigation, a previous administrative review, or other information placed on the record.

Section 776(c) of the Act provides that, in general, when Commerce relies on secondary information rather than on information obtained in the course of an investigation, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave

rise to the investigation, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise. However, Commerce is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.

Under section 776(d) of the Act, Commerce may use any dumping margin from any segment of a proceeding under an AD order when applying an adverse inference, including the highest of such margins. The TPEA also makes clear that when selecting an AFA margin, Commerce is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.

In accordance with section 776 of the Act, Commerce preliminarily determines that the application of facts available is warranted for the collapsed entity OISI/ODS because OISI/ODS did not respond to the antidumping questionnaire and, thus, has not provided the necessary information on the record, pursuant to section 776(a)(1) of the Act. Specifically, OISI/ODS has withheld requested information, failed to provide such information in the form and manner required, and impeded this review, thus, the use of facts available for the preliminary results is warranted, pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. For a full discussion, *see* the Preliminary Decision Memorandum.

Furthermore, by withholding requested information, failing to provide such information in the manner and form required, and impeding this review, OISI/ODS failed to cooperate with Commerce by not acting to the best of its ability to comply with a request for information by Commerce, pursuant to section 776(b)(1) of the Act. Accordingly, we preliminarily determine to apply AFA to OISI/ODS, in accordance with sections 776(a) and (b) of the Act and 19 CFR

351.308. Furthermore, as we do not have information on the record to calculate a margin for OISI/ODS, we have calculated its margin based on total AFA. Specifically, we are applying as AFA, a margin of 154.33 percent, which was alleged by the petitioner in the petition filed in the investigation,¹⁵ and which we applied to OISI/ODS in the first administrative review in this proceeding. Because we applied this margin to OISI/ODS in the prior review, it is unnecessary to corroborate this margin pursuant to section 776(c)(2) of the Act. For further discussion, *see* the Preliminary Decision Memorandum.

Duty Absorption

On October 10, 2017, the petitioner requested that Commerce conduct a duty absorption review with respect to all producers/exporters subject to this review.¹⁶ We have determined not to examine duty absorption with regard to Oman Fasteners and the ten companies for which we are rescinding the review, but we have found that duty absorption exists with respect to OISI/ODS based on AFA.¹⁷

Preliminary Results of Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins for the period July 1, 2016, through June 30, 2017:

¹⁵ *See Certain Steel Nails from India, the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 36019, 36023-36024 (June 25, 2014).

¹⁶ *See* Letter from the petitioner, “Certain Steel Nails from Oman: Request for Duty Absorption Inquiry,” dated October 10, 2017.

¹⁷ *See* Preliminary Decision Memorandum at 17.

Exporter/Producer	Weighted-Average Dumping Margins (percent)
Oman Fasteners LLC	0.00
Overseas International Steel Industry LLC/ Overseas Distribution Services Inc.	154.33

Disclosure and Public Comment

Commerce intends to disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.¹⁸ Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.¹⁹ Executive summaries should be limited to five pages total, including footnotes.²⁰ Case and rebuttal briefs should be filed using ACCESS.²¹

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the *Federal Register*. If a hearing is requested, Commerce will notify interested parties of the hearing schedule. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS within 30

¹⁸ See 19 CFR 351.309(d)(1).

¹⁹ See 19 CFR 351.309(c)(2) and (d)(2).

²⁰ *Id.*

²¹ See 19 CFR 351.303.

days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the *Federal Register*, unless otherwise extended.²²

Assessment Rates

Upon completion of the administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (i.e., 0.50 percent), we will calculate importer-specific *ad valorem* duty assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales, in accordance with 19 CFR 351.212(b)(1).²³ For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.²⁴ Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific assessment rate is zero or *de*

²² See section 751(a)(3)(A) of the Act.

²³ In these preliminary results, Commerce applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012).

²⁴ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

minimis, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For the ten companies for which this review is rescinded, antidumping duties will be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawn from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirement

The following cash deposit requirements will be effective upon publication of the notice of the final results of administrative review for all shipments of nails from Oman entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or

exporters will continue to be 9.10 percent *ad valorem*, the all-others rate established in the less-than-fair value investigation.²⁵

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

These preliminary results and partial rescission of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: May 7, 2018.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

²⁵ See *Certain Steel Nails from the Republic of Oman: Final Determination of Sales at Less Than Fair Value*, 80 FR 28955 (May 20, 2015).

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
 - II. Background
 - III. Scope of the Order
 - IV. Affiliation
 - V. Use of Facts Otherwise Available and Adverse Interferences
 - VI. Discussion of the Methodology
 - VII. Duty Absorption
 - VIII. Recommendation
- [FR Doc. 2018-10201 Filed: 5/11/2018 8:45 am; Publication Date: 5/14/2018]